



# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

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## **STATEMENT OF NLRB GENERAL COUNSEL FRED FEINSTEIN REGARDING THE NATIONAL BASKETBALL PLAYERS ASSOCIATION ELECTION**

Today and again on September 7, 1995, the National Labor Relations Board is conducting a union decertification election petitioned for by National Basketball Association players who will decide whether they wish to continue to be represented by the National Basketball Players Association.

Conducting secret ballot elections to determine whether or not employees wish to be represented by a labor organization or wish to continue to be represented by the certified union is one of the primary functions of the NLRB. Basketball players, like other employees, have a right to be represented by a union or not to be represented by a union. Although this election is unusually high-profile, it is being conducted in the same manner as the more than 3,500 representation elections and the nearly 500 decertification elections that the NLRB conducted in Fiscal Year 1994 alone. The NLRB's goal with this election -- as in all elections that the NLRB oversees -- is to protect the rights granted to employees under the National Labor Relations Act. The NLRB is the sole federal agency entrusted with enforcing the Labor Act and the agency will continue to take its responsibilities seriously.

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## FACT SHEET ON THE NATIONAL LABOR RELATIONS BOARD

### What Is the NLRB?

The National Labor Relations Board is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers or to refrain from all such activity. Generally applying to all employers involved in interstate commerce--other than airlines, railroads, agriculture, and government--the Act implements the national labor policy of assuring free choice and encouraging collective bargaining as a means of maintaining industrial peace. Through the years, Congress has amended the Act and the Board and courts have developed a body of law drawn from the statute.

### What Does the NLRB Do?

In its statutory assignment, the NLRB has two principal functions: (1) to determine, through secret-ballot elections, the free democratic choice by employees whether they wish to be represented by a union in dealing with their employers and if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions. The agency does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections that are filed with the NLRB in one of its 52 Regional, Subregional, or Resident Offices.

### What Is the NLRB's Structure?

The agency has two major, separate components. The *Board* itself has five Members and primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings. Board Members are appointed by the President to 5-year terms, with Senate consent, the term of one Member expiring each year. The current members of the Board are: William B. Gould, IV (Chairman), James M. Stephens, Margaret A. Browning, Charles I. Cohen, and John C. Truesdale. The *General Counsel*, appointed by the President to a 4-year term with Senate consent, is independent from the Board and is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB field offices in the processing of cases. The current General Counsel is Fred Feinstein. Each Regional Office is headed by a Regional Director who is responsible for making the initial determination in cases arising within the geographical area served by the region.

## **What is Happening In the National Basketball Association Case?**

Congress authorized the Board to conduct elections among appropriate units of employees to determine whether those employees wish to be represented for the purposes of collective bargaining. Among the different types of elections is a decertification election, which means the employees are voting on whether to retain their current collective-bargaining representative. It is a decertification election that is being conducted in the National Basketball Association case.

On June 21, 1995 a decertification petition was filed with Region 2 (New York City) of the Board by 17 basketball players to decertify the National Basketball Players Association. A hearing was held and a Decision and Direction of Election was issued by Regional Director Daniel Silverman on July 26, 1995. Pursuant to that decision an election was arranged to be conducted as follows: 10:30 am to Noon and 3:30 pm to 5:00 pm on August 30, 1995 and September 7, 1995. The election will take place at 47 locations around the country. The ballots will be counted at Region 2 on September 12, 1995 at 2:00 pm. The parties have seven days after the ballot count to file objections to the election. If no objections are filed within the allotted time period the election results are certified by the Board. In the event objections are filed, the Board will conduct an investigation and the objections will have to be resolved before the election results can be certified.